

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: June 27, 2005

To: The Commission
(Meeting of June 30, 2005)

From: Delaney Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 67 (Levine) Electricity: rates: report to Legislature
As Amended May 2, 2005**

Legislative Subcommittee Recommendation: Oppose

Summary: This bill would require the Commission to report to the legislature by June 1, 2006 and every year thereafter a 10-year forecast for the different aspects and elements of electricity rates for each class of ratepayers for each electrical corporation. The bill would require the commission to use the forecasts to develop policies that reduce, and eventually eliminate, fixed costs for bond debt incurred by the Department of Water Resources for power purchase contracts and stranded costs inherent in electricity rates for all classes. The bill would require the commission to ensure that reductions created by retiring debt or expiring costs are not replaced by other utility costs, new public goods programs, or increased costs of existing public goods programs.

Division Analysis (Energy/OGA):

AB 67 seeks to give greater understanding of current electric rates. While a laudable goal, the actual language of the bill is unworkable and indeed makes erroneous assumptions.

A ten year forecast is clearly too long to accurately reflect what could and indeed will happen to rates. Currently, the Commission conducts general rate cases every three years, which is a more reasonable period of time to gauge the effect of changing policy and infrastructure needs on rates.

Fixed costs associated with the DWR bonds will be eliminated when the bonds are paid off, as directed in the bond covenants. The Commission is merely the collection agent for such costs. The DWR rate (for recovery of bond costs) is authorized in a separate proceeding, not general rate cases or even the rate design phase or separate rate

design proceeding, thus there is not a trade-off of rate recovery between DWR costs and any other costs.

Lastly, AB 67 would require the Commission to ensure that reductions created by retiring debt or expiring costs are not replaced by other utility costs. This language is extremely troubling. The Commission has to ensure that utilities provide safe and reliable service at the lowest possible costs. This proposed bill language seems to prohibit the CPUC from allowing the utilities to recover any costs above those currently in rates which is too restrictive. Further, it assumes that the Commission is the only agency that makes policies that effect rates. Clearly, the Legislature is quite active in developing new programs and policies that impact rates.

Recommended Amendments

N/A

LEGISLATIVE HISTORY

N/A

STATUS

Passed the Assembly on May 27, 2005 by a vote of 73-1. The bill will be heard in the Senate Committee on Energy, Utilities & Communications on June 30, 2005.

SUPPORT/OPPOSITION

Support:

None on file.

Opposition:

None on file.

STAFF CONTACT

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Date: June 27, 2005

BILL LANGUAGE

BILL NUMBER: AB 67 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY MAY 2, 2005

INTRODUCED BY Assembly Member ~~Chavez~~ Levine

DECEMBER 21, 2004

An act to add Section ~~2891.5~~ 747 to
the Public Utilities Code, relating to ~~telecommunications~~
electricity .

LEGISLATIVE COUNSEL'S DIGEST

AB 67, as amended, ~~Chavez~~ Levine .
~~Telecommunications: customer proprietary network information~~
Electricity: rates: report to Legislature .

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including ~~telephone~~ electrical corporations. ~~Existing law prescribes the circumstances under which telephone and telegraph corporations may release information regarding residential subscribers without their written consent.~~ Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable.

Existing law authorized the Department of Water Resources, until January 1, 2003, to enter into contracts for the purchase of electricity, and to sell electricity to retail end-use customers and, with specified exceptions, local publicly owned electric utilities, at not more than the department's acquisition costs and to recovery those costs through the issuance of bonds, to be repaid by ratepayers.

This bill would require the commission to report to the Legislature, by June 1, 2006, and by June 1 of each year thereafter, a 10-year forecast for the different aspects and elements of electricity rates for each class of ratepayers, meeting specified requirements, for each electrical corporation. The bill would require the commission to use the forecasts to develop policies that reduce, and eventually eliminate, fixed costs for bond debt incurred by the Department of Water Resources for power purchase contracts and stranded costs inherent in electricity rates for all classes. The bill would require the commission to ensure that reductions created by retiring debt or expiring costs are not replaced by other utility costs, new public goods programs, or increased costs of existing public goods programs.

~~Under the federal Communications Act of 1934, as amended, a telecommunications carrier has a duty to protect the confidentiality of proprietary information of customers. The act limits the use, disclosure, or access to customer proprietary network information, as~~

~~defined. Pursuant to the act, the Federal Communications Commission has adopted regulations that, among other things, require specified notice to customers and establish procedures for telecommunications carriers and affiliates to follow in obtaining opt in approval and opt out approval for the use, disclosure, or access to customer proprietary network information.~~

~~— This bill would prohibit a telephone corporation or an affiliate, as defined, of a telephone corporation from discriminating between customers based upon a customer's consent, or refusal to consent, to provide opt in or opt out approval to the use or disclosure of, or access to, customer proprietary network information pursuant to the above-described federal law and regulations. The bill would prohibit a telephone corporation or an affiliate from offering any financial inducement to obtain a customer's consent to the use or disclosure of, or access to, a customer's proprietary network information pursuant to the above-described federal law and regulations.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~
yes . State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

~~— SECTION 1. Section 2891.5 is added to the Public Utilities Code, to read:~~

SECTION 1. Section 747 is added to the
Public Utilities Code , to read:

747.

(a) Notwithstanding Section 7550.5 of the Government Code, the commission shall report to the Legislature, by June 1, 2006, and by June 1 of each year thereafter, a 10-year forecast for the different aspects and elements of electricity rates for each class of ratepayers, for each electrical corporation. To perform these forecasts, the commission may require submission of pro-forma analyses, debt retirement schedules, amortization schedules, wholesale energy cost projections, resource plans, market assessments, and related outlooks from electrical corporations, gas corporations, and energy market participants. The yearly reports beginning June 1, 2007, shall include a detailed description of any changes in projections or assumptions that may be different from the previous year's forecast. For purposes of this subdivision, "energy market participants" includes any entity that is a "market participant" as defined in the Master Definitions Supplement of the California Independent System Operator Corporation tariff approved by the Federal Energy Regulatory Commission or its successor, and the Independent System Operator incorporated pursuant to Section 340.

(b) In developing the forecasts prepared pursuant to subdivision (a), the commission shall do all of the following:

(1) Provide detailed quantitative and descriptive information about the elements of electricity rates, including timelines.

(2) Develop and maintain the analytical capability sufficient to answer inquiries about electricity rates from government, market participants, and the public.

(3) Analyze and develop ratemaking policies.

(4) Provide an analytical foundation for regulatory and policy

decisionmaking.

(5) Facilitate efficient and reliable electricity markets.

(c) The commission shall use the 10-year forecasts to develop policies that reduce, and eventually eliminate, fixed costs for bond debt incurred pursuant to Division 27 (commencing with Section 80000) of the Water Code and stranded costs inherent in electricity rates for all classes. The commission shall ensure that reductions created by retiring debt or expiring costs are not replaced by other utility costs, new public goods programs, or increased costs of existing public goods programs.

~~—2891.5.~~

~~—(a) No telephone corporation or an affiliate of a telephone corporation, shall not discriminate between customers based upon the customer's consent, or refusal to consent, to provide opt in approval or opt out approval of the use or disclosure of, or access to, customer proprietary network information pursuant to Section 222 of Title 47 of the United States Code and Part 64 of Title 47 of the Code of Federal Regulations.~~

~~—(b) A telephone corporation or an affiliate of a telephone corporation shall not offer any financial inducement to obtain a customer's consent to the use or disclosure of, or access to, customer proprietary network information pursuant to Section 222 of Title 47 of the United States Code and Part 64 of Title 47 of the Code of Federal Regulations.~~

~~—(c) For purposes of this section, the following terms have the following meanings:~~

~~—(1) "Affiliate" has the same meaning given the term in paragraph (1) of Section 153 of Title 47 of the United States Code.~~

~~—(2) "Customer proprietary network information" has the same meaning as given the term in Section 222 of Title 47 of the United States Code.~~

~~—(3) "Discriminate" means a difference in treatment or favor as a result of the customer's decision.~~